



AN
ENQUIRY

INTO THE
ORIGIN of *Parliamentary*
Impeachments, &c.



Price One Shilling.

THE HISTORY OF THE

A N

ENQUIRY

INTO THE

ORIGIN OF PARLIAMENTS

IN PARLIAMENTS, &c.

BY JOHN HALLAM, ESQ.

Price One Shilling.

*Printed by W. B. ...
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ENQUIRY
INTO THE
ORIGIN of *Parliamentary*
Impeachments :

WITH
A HISTORY of the most re-
markable PROCEEDINGS of that
Kind from the Beginning to our Time.

WHEREIN
Are particularly contain'd the Articles of
Impeachment exhibited against Cardinal
Wolsey, formerly Lord High Chancellor of
England.

In a LETTER to a Country Gentleman.

Libertas, quæ sera, tamen respexit. Virg.

L O N D O N :
Printed for J. PEELE, at *Locke's-*
Head, in *Pater-Noster-Row*.

Great Britain
Commons House of
Commons

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WHISTON

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In a LETTER to a Country Gentleman.

London, the 10th of June 1704.

L O N D O N :

Printed for J. PEARSON, at the
Head, in Pall-Mall near



AN
ESSAY
UPON

*Parliamentary Impeach-
ments, &c.*

SIR,



Am apprehensive, that
your Desire to be in-
formed of the Nature
and Origin of Im-
peachments, is not
so easily to be satis-
fied, as you ima-
gined, when you made the Request:
However, be pleased to accept such
loose Hints as a Man not engaged in
the Profession of the Law has been
able to collect from our Books of Law

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and

and History. I cannot assure you that every Observation in the ensuing Enquiry will be just ; but I will venture to affirm, that they appear so to me ; and tho' they might not entirely ease your Curiosity, yet they will be a good Foundation for raising better Opinions, either by your own Remarks, or by comparing them with what you hear from others on the same Subject.

There are but three *ordinary* Methods of accusing Men of capital Crimes by our Law ; I say, ordinary, because Bills of Attainder, tho' in all Times very common, are still thought an extraordinary Method of Proceeding, and may rather be said to condemn than accuse, tho' indeed they perform both Offices.

The first and most ancient of these, is by Appeal, that is, an Action brought in the Name of the Person injured against the Party accused, and was originally the only Method of Proceeding in all criminal Causes, Treason not excepted.

In

In Process of Time Indictments were introduc'd, and have since almost ingrossed all capital Causes in the ordinary Courts of Justice; I suppose the Reason of them was originally, that the King should not lose his Fines and Forfeitures by the Non-Prosecution of the Party aggrieved; and I am confirmed in this Opinion, when I reflect, that while Appeals continued in Use, no Indictment could be preferr'd at the Suit of the King, till the Time limited for the Party's Suit was elapsed either by his Connivance or Neglect, until a Statute in the Reign of *Henry* the Seventh alter'd and amended the Law, but in Appeals of Murder only, for in all other the Common Law continued; and such it was, that if the Party Appellant once commenced his Suit, and it abated by his Laches or Neglect, tho' he was for ever barred from prosecuting, yet was the Declaration that he had filed made use of, and the Defendant arraigned upon it at the Suit of the King; nor was an Indictment preferred, but for Neglect of the Party in beginning his Suit in

proper Time : This I speak in Cases between Subject and Subject ; for the Appeals in Treason were very early abolished by Statute.

The last is an Impeachment by the Commons in Parliament, and is the greatest and most weighty Accusation of all ; for the first is only in the Name and at the Suit of a private Subject ; the second for an Offence against the King alone ; but this last is in the Name and at the Suit of the whole Commons of *Great Britain*, and for Crimes committed against the Body of the People ; and this is the Method of accusing which we are at present to treat of.

And here I must beg that you will indulge me in a Liberty which is generally taken by Essayists of every Kind, that is, of throwing my Observations into such Order as they occur to me, without regarding that Method and Arrangement which is necessary to illustrate Things to Persons entirely unacquainted with the Matter to be discussed.

Impeach-

Impeachments can be no older than Parliaments, and whatever our Lawyers imagine, the *English* Parliament is not of so ancient a Date as they contend for; all they say will amount to no more (admit it to be well proved) than that something like a Parliament was in Use among the *Saxons*.

But, when the Government came into the Hands of the *Normans*, the Model of it was entirely alter'd. There pass'd some Reigns before the Foundations of the present Parliament were laid; and when they were begun, it was rather a new Institution, than the Revival of an old Practice. My Lord *Coke* somewhere quotes a Record, from which he would argue, that not only the Nobles, but the Citizens and Burgeses met in an Assembly to counsel and consent to some Act of a *Saxon* King. Admit this to be true, yet how unlike was it to the first Institution of our *English* Parliaments? for the same Author asserts *Henry* the First to be the first who summoned a Parliament after the Conquest; and it is clear from all Records, that no Ci-
tizen

tizen or Burgeſſes ever ſate in Parlia-
ment till the Reign of *Henry* the Third.

I won't deny but the Commons were in ſome Meaſure repreſented before ; but it was by thoſe Gentleman called Barons, who were not of the Nobility, but Country Gentlemen, who held Lands from the King, (an Honorary Tenure in thoſe Days;) for it is a Miſtake to ſuppoſe that the Barons were originally Noblemen, none were ſo but Earls, who were called *Comites*, as it were Companions of the Monarch ; and this appears from the Barons being ſtiled Knights and Eſquires in the old Records, which ſurely they would not take up with if Baron was a Title of Nobility ; for Example, there is extant a Roll of Parliament, in the firſt Year of *Edward* the Fourth, where they are named by their Names, Surnames, and Places of Abode, and underneath is written, *Omnes Milites exceptis Johanne de Audely Armigero & Johanne Damino de Clynton* ; and there are Writs to be found in the Rolls of every Parliament, from the End of the Reign of *Richard* the Second, to the Beginning

ning of *Henry* the Sixth, for summoning a Baron to Parliament by the Name of *Mr. Thomas de la Warre*.

But to put this Affair beyond doubt, there is a Case in one of the Year Books, where a Baron of Parliament was named in a Writ *Miles*, to which Exception was taken; but the Court held it good, and Baron was adjudg'd to be no Title of Honour or Distinction; tho' it was held for Law, that if he had been an Earl or Duke, the Writ must have abated; and indeed the Case was the same as if a Gentleman at this time a Day should plead in Abatement that he was a Member of Parliament, and not named so in a Writ by which he was sued.

But to proceed, the Word Baron means no more than Freeman, and as such were their Summons to Parliament. In regard of the Lands they held, they were thought proper to represent the whole Commonalty; which consisted only of such; for as yet

* *Lord Lovel's Case*, 8 H. 6. 10 a.

Trade

Trade was in Obscurity, and its Professors hardly thought worth a Representation in an Assembly of the States. Afterwards they claimed an Inheritance in it, which was not contested, tho there are some Instances of Barons *pro hac Vice tantum*, until the Time of Henry the Third, who having broke their Power in the Barons Wars, neglected to summon such of them as had appeared in Arms against him, and in their Stead ordered his Sheriffs to send for each County such Knights as they, who were the King's Creatures and Servants, thought proper, and ordered the Towns and Cities to send up *probos & Legales homines*, intimating, that the old Barons, on Account of their Rebellion and Treason, had ceased to be such; and this was the first Time of the Commons coming to Parliament, in the Sense we now understand the Word.

Well then, Impeachments by the Commons must be still of a later Date; for we cannot suppose that they acted by themselves till their Separation from the Lords House, in which they sat all together till the Reign of Richard the

the Second, or *Henry* the Fourth, for the Time cannot be adjusted, only thenabouts we find the Commons first had a Speaker of their own, which we must suppose to be the Consequence of their dividing from the Lords; and yet I am inclined to think that such Accusations are a Practice still more modern; but will suspend my Opinion till I know your's, after you have read the following short History of the most remarkable Parliamentary Impeachments from the Beginning to this Day, which I have collected from our best Historians, and which I humbly submit to your Judgment.

The first whom the Parliament undertook to proceed against, was *Hubert de Burgh*, Earl of *Kent*, Lord Chief Justice of *England* in the Reign of *Henry* the Third. His Crime was advising the King that he might avoid the two great Charters, as given by his Father under Duress, and confirmed by himself in his Minority; upon which the King relying, cancelled them both; but soon after, being convinced of his Error, he gave up his Adviser to the Fury of his angry Peers,

Peers, who sentenced him to be degraded of his Nobility, and his Life to be in the King's Mercy. I don't apprehend that this was either by Impeachment or Atrairder, but by an Order of the House upon their being fully convinced of the Earl's Guilt.

The next that I find called to Account in Parliament was *Henry de Bath*, Lord Chief Justice of *England*, in the Reign of *Henry the Third*: His Accusation was for Bribery and Corruption, it appearing that in one Circuit he had acquired Lands to the Value of 200 *l. per Ann.* a great Estate then, and not to be honestly gained even now in so short a Time: It was also proved, that he had for a Bribe acquitted a certain Malefactor who came before him. I don't find that any Articles were exhibited against him, or that the House meddled much in the Matter; but the King was very violent against him; and finding his Friends too strong to have him judicially punished, offered his Pardon to any Person that would kill *Henry de Bath*. But soon after, at the Intercession of some of the Lords, he was restored

restored to Favour and his Place; but not till he had paid a Fine of Two Thousand Marks.

The next whom I find under the Displeasure of the Parliament, is *Pierce Gaveston*, in the Beginning of the Reign of *Edward* the Second; but he does not seem to have been impeached or accused by Name; they only procured the King's Assent to a Statute called, *Articuli Super Chartas*; by which he was implicitly to be banished as a Stranger and Foreigner, tho' he was a Native of the King's Dominions in *France*. I don't find that he was ever formally charged with any other Crime. His Story is well known; he was banished twice, and twice he returned: The King's Power and Favour could not shelter him; for the Lords, by their own Authority, struck off his Head as a Person attainted by the Statute aforesaid; and this seems to be the Foundation of that Opinion in Law, That the King cannot pardon an Attainder by Parliament.

This King, who was unfortunate in his Favourites, had more Troubles

brought upon his Head by protecting the Two *Spencers*, against whom Articles of Impeachment were exhibited in Parliament by the Commons, (says the Historian) tho', as I observed before, the Commons were not as yet separated from the Lords : But I am rather inclined to believe this was a Bill of Attainder against them; for that the Lords, who quarrelled with the King for refusing his Assent to it, insisted that they were condemned in Parliament, tho' it be plain from the King's Answer, and the History of those Times, that they were never called to defend themselves : However, the King soon after agreed to it, and they stood banished ; yet soon after the King repenting, declared the Judgment void, and recalled them ; but little did his Favour avail them, for when they fell into the Hands of the incens'd Lords, they were, without farther Examination, executed as Traytors.

I don't know whether I should mention *Edmund* Earl of *Kent*, the King's Uncle, who in the third Year of *Edward* the Third, was accused in Parliament

liament of High Treason, for *intending* only to restore his late Brother *Edward the Second* to the Crown; for which, upon his own Confession, he was condemned and executed: This also would like look an Attainder; for sure by the strict Rules of Law, a Man could not be punish'd for an Intention never discovered by any Acts.

Now come we to the first Impeachment, properly so called, by the Commons, in the Reign of King *Richard the Second*, who demanding a Subsidy of his Commons, was refus'd until such Time as Articles might be exhibited and made good against *Michael de la Poole*, Earl of *Suffolk*, then Lord Chancellor; which was done accordingly, and he found guilty of High Crimes and Misdemeanors, for which he was sentenced to be removed from his Office, to pay a Fine of Twenty Thousand Pounds, and a Thousand Pounds yearly during Life. What his Crimes were, I can't learn from the Historian, but his chiefest Offence seems to me, that he was an Upstart, for his Father had been a Merchant, and he himself was the
Maker

Maker of his own Fortune, for which the Nobility hated him; but soon after the King being resolved to undo this Matter again, dissolved the Parliament, and in order to this Design, proposed several Questions in Writing to the Judges, which were as follows:

1. *Whether the Statute made in the last Parliament, by which Thirteen Commissioners were appointed under the King for the Government of the Realm, together with the said Commission, were against the King's Prerogative, or no? To which they all answer'd, They were.*

2. *How they ought to be punished that procured the said Statute and Commission to be made? They answered with one Assent, That they deserved Death, except the King would pardon them.*

3. *How they ought to be punished who moved the King to consent to the making of the said Statute and Commission? They answered, They ought to lose their Lives, unless the King would pardon them.*

4. *How*

4. *How they ought to be punished that compelled the King to the making of that Statute? They answered, They ought to suffer as Traytors.*
5. *Whether the King might cause the Parliament to proceed upon Articles by him limited, before they proceed to any other? They answered, That in this Case the King should over-rule; and if any presumed to do contrary, he was to be punished as a Traytor.*
6. *Whether the King might not at his Pleasure dissolve the Parliament, and command the Lords and Commons to depart? They all answered, He might.*
7. *Whether the Lords and Commons might, without the King's Will, impeach Officers and Justices upon their Offences in Parliament, or no? It was answered, They might not; and he that attempted contrary, was to suffer as a Traytor.*
8. *How is he to be punished who moved in Parliament, that the Statute wherein Edward the Second was indicted in Parliament, might be sent for, by Inspection of which Statute the present Statute was devised?*

vised? It was answer'd, That as well he that moved it as he that brought the Statute into the House were to be punish'd as Traytors.

9. Whether the Judgment given in Parliament against Michael de la Poole were erroneous and revocable? They answer'd, It was erroneous and revocable; and that if the Judgment were now to be given, the Justices would not give the same.

In Witness of the Premisses, the Justices aforesaid, to these Presents have set their Seals, in Presence of Alexander, Archbishop of York, Robert, Archbishop of Dublin, John, Bishop of Durham, Thomas, Bishop of Chester, John, Bishop of Bangor, Robert, Duke of Ireland, Michael, Earl of Suffolk, John Ripon, Clerk, and John Blake.

But as soon as the next Parliament met, all these Judges were sent to the Tower, and most of them executed as Traytors for this Advice.

Also

Also in this Parliament an Impeachment was in the Name of some of the Lords; for *Robert Vere* Duke of *Ireland*, *Alexander Nevill*, Arch-bishop of *York*, *Michael de la Pool* Earl of *Suffolk*, and *Sir Robert Tresilian*, Lord Chief Justice of *England*, were openly called to answer *Thomas Woodstock* Duke of *Gloucester*, *Richard* Earl of *Arundel*, *Henry* Earl of *Derby*, and *Thomas* Earl of *Nottingham*, upon certain Articles of High-Treason; and for not appearing, were attainted by Parliament, and condemned to perpetual Banishment: But *Tresilian* was soon after found lurking about, and hang'd the same Day he was taken.

In the next Parliament, Affairs took another Turn, and several of the Lords of the opposite Party had Indictments found against them at *Nottingham*; but that is not to our Purpose. The Arch-bishop of *Canterbury* was by *Sir John Bushie*, Speaker of the House, accused in the Name of the Commons, and without being suffered to answer, tho' actually sitting in the House, condemned to perpetual Banishment. By the same Commons was impeached,

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prosecuted and condemned, before *John of Gaunt*, Duke of *Lancaster*, Lord High Steward for the Time being, *Richard Earl of Arundel*, before-mentioned; he was charged with High-Treason, and soon after beheaded.

But what shewed the high and ancient Power of this great Court, more than all, were the Articles soon after exhibited in Parliament against *Richard the Second*, then King; which he confess'd, and was by them formally deposed, as every Body has heard and knows.

It is observable in History, that the Reigns in which Instances of this kind abound, are not the most prosperous, and therefore I find little Matter to trouble you with, till the Reign of *Henry the Sixth*, in which *John De la Pool*, Duke of *Suffolk*, is the first Example; who, tho' protected and encouraged by the Favour of the Queen, and placed in the most exalted Station of Life, yet cou'd not escape the Resentment of the injur'd Commons, by whom he was impeached, and Articles exhibited against him; which, when

he had deny'd, new ones were added; upon which he was committed to the Tower: But the Queen, to prevent his impending Ruin, caused the Parliament to be dissolved, and immediately the Duke was set at Liberty. Soon after a new Parliament was call'd; and tho' the Queen had left no Stone unturn'd to get a favourable House of Commons, yet so glorious was the Spirit of our Ancestors, that the very first Day of the Session, they petitioned the King, that the Duke of *Suffolk* and his Abettors might be brought to Justice; which Petition the Lords also seconded; so that the King, tho' fond of his Minister, found himself under a Necessity of losing his Service, in order to save his Crown; and to appease the Commons, consented to banish him for five Years. And this, I must remark to you, was the first Impeachment by the Commons, according to the present Custom.

Soon after the Duke of *Somerset* was, by the Interest of the Duke of *Tork*, arrested and sent to the Tower, and then by the Commons impeached of High Treason. The King immediate-

ly had recourse to the old Remedy of dissolving the Parliament; which done, the Duke was set at Liberty, and honoured with greater Trusts and Employments than before; which so enraged the *Torkists*, that they levy'd Forces, and gave Battle to the King, in which the Duke of *Somerset* was kill'd; and so ended that Affair.

I don't know whether I should mention the Bill of Attainder, which pass'd against the Duke of *Tork* and his Adherents in the same Reign. I shall only remark, that it is the first Precedent I find of that common Practice of attainting Men that are up in Arms and engaged in Rebellion; and seems to be very justifiable, as well as good Policy, because by the Common Law, if they died in the War without such Attainder, they incurred no Forfeiture for their Treason and Disloyalty.

However equitable that may be, I can't say so of the following Example. In the Second Year of *Edward* the Fourth, *John* Earl of *Oxford*, and some others, were attainted of Treason by Act of Parliament, without being allowed

lowed to make any Defence, and put
to Death accordingly. Heaven be
praised, such a Practice is not legal at
present. I don't see but the Sultan's
Bow-string is as valuable a Part of the
Subjects Liberty, as such a Power in
Favourites.

In the first Year of *Henry the Seventh*,
there was another Attainder, by Act of
Parliament, of *Richard the Third* and
his Adherents; which I should not
mention, but to inform you that the
King afterwards pardoned some of 'em,
and restored them to their Lands: Such
a Thing wou'd not be thought good
Law at this Day.

I meet with something odd in the
Beginning of King *Henry the Eighth's*
Reign. My Historian says, that *Emp-
son* and *Dudley* were first attainted by
Parliament of High-Treason, then sent
the one to *Guild-Hall*, and the other to
Northampton, and there severally ar-
raigned, and in some Time after be-
headed at *Tower-Hill*. This Passage I
submit to your Interpretation: And
here I can't help inveighing against the
Generality of our Historians, who are

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commonly most ignorant of what they should be best informed in, the Laws and Constitution of our Country; by which Means it happens that they not only fall into Mistakes themselves, but mislead Readers of an easy Credulity into monstrous Opinions, relating to the Administration of our Laws, which a Man can never be set right in, (such is the Neglect of Historians) without consulting all the Records, which is the Labour of a whole Life. But now I reflect on that Passage, if it means any thing, it must be that their Crimes were made Treason by Parliament, and they were afterwards arraigned and found guilty of them.

Cardinal *Wolsey* is the next Object of Parliamentary Wrath; tho' his Impeachment be of an odd Nature; for when it was attempted in the House of Commons, he was there so well defended by his Servant *Thomas Cromwell*, that the Motion was rejected; upon which several of the Lords exhibited Articles against him to the King, which he was sent for to answer; But his Death prevents our knowing the Issue of this extraordinary Proceeding.

How?

However, as the Articles are of an un-
common Kind, and as no Historian has
taken the Pains to transcribe that just-
ly, you shall here see a true Copy of
them.

*ARTICLES of Im-
peachment exhibited a-
gainst Cardinal Wolsey
&c.*

CONstrained by Necessity of our
Fidelity and Conscience, com-
plain and shew to your Most Royal
Majesty, We your Grace's humble,
true, faithful and obedient Subjects,
That the Lord Cardinal of York, lately
your Grace's Chancellor, presuming to
take upon him the Authority of the
Pope's *Legate de Latere*, hath by di-
vers and many sundry Ways and Fashi-
ons committed high and notable grie-
vous Offences, misusing, altering and
subverting the Order of your Grace's
Laws, and otherwise contrary to your
high Honour and Prerogative, Crown,
Estate,

Estate, and Dignity Regale to the inestimable great Hinderance, Diminution and Decay of the Universal Wealth of this your Grace's Realm: And it is touched summarily and particularly in certain Articles here following, which be but a few in Comparison of all his Enormities, Excesses and Transgressions committed against your Grace's Laws.

I. Where your Grace and Noble Progenitors within this your Realm of *England*, being Kings of *England*, have been so free, that they have had in all the World none other Sovereign, but immediate Subject to Almighty God in all Things touching the Regality of the Crown of *England*, and the same Pre-eminence, Prerogative, Jurisdiction, lawful and peaceable Possession your Grace and your Noble Progenitors have had, used and enjoyed, without Interruption or Business therefore by the Space of Two Hundred Years and more; whereby your Grace may prescribe against the Pope's Holiness, that he should nor, nor ought to send or make any Legate, to execute any Authority legative, contrary to your Grace's Prerogative within this your Realm.

Realm. Now the Lord Cardinal of *Tert* being the Subject and natural Liege born, hath of his high orgillous and insatiable Mind, for his own singular Advancement and Profit, in Derogation and to the great Imblemishment and Hurt of the said Regal Jurisdiction and Prerogative, and the long Continuance of the Possession of the same, hath obtained Authority Legatine; by Reason whereof he hath not only hurt the said Prescription, but also by the said Authority Legatine, hath spoiled and taken away from many Houses of Religion within this your Realm much Substance of their Goods. And also hath usurped upon all your Ordinaries within this your Realm much Part of their Jurisdiction, in Derogation of your Prerogative, and to the great Hurt of your said Ordinaries, Prelates, and Religions.

II. Also the said Lord Cardinal, being your Ambassador in *France*, made a Treaty with the *French* King for the Pope, your Majesty not knowing any Part thereof, nor named in the same; and binding the said *French* King to abide his Order and Award, if any

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Controversy or Doubt should arise upon the same, betwixt the said Pope and the *French King*.

III. Also the said Cardinal, being your Ambassador in *France*, sent a Commission to Sir Gregory de Cassalis, under your Great Seal in your Grace's Name, to conclude a Treaty of Amity with the Duke of *Ferrare*, without any Commandment or Warrant of your Highness, nor your said Highness advertised or made privy to the same.

IV. Also the said Lord Cardinal, of his presumptuous Mind, in divers and many of his Letters and Instructions sent out of this Realm to outward Parts, had joined himself with your Grace, as in Saying and Writing, The King and I would ye should do thus; the King and I do give unto you our hearty Thanks; whereby it is apparent that he uses himself more like a Fellow to your Highness, than like a Subject.

V. Also, where it hath ever been accustomed within this Realm, that when

when Noblemen do swear their Household Servants, the first Part of their Oath hath been, that they should be true Liege-Men to the King and his Heirs, Kings of *England*; the same Lord Cardinal caused his Servants to be only sworn to him, as if there had been no Sovereign above him.

VL. And also, whereas your Grace is our Sovereign Lord and Head, in whom standeth all the Surety and Wealth of this Realm; the same Lord Cardinal, knowing himself to have the foul and contagious Disease of the Great Pocks broken out upon him in divers Places of his Body, came daily to your Grace, drowning in your Ear, and blowing upon your most noble Grace with his perillous and infectious Breath, to the marvellous Danger of your Highness, if God of his infinite Goodness had not better provided for your Highness. And when he was once healed of them, he made your Grace to believe, that his Disease was an Imposthume in his Head, and of none other Thing.

VII. Also the said Lord Cardinal, by his Authority Legatine, hath given by Prevention the Benefices of divers Persons, as well Spiritual as Temporal, contrary to your Crown and Dignity, and your Laws and Statutes thereof provided: By Reason whereof he is in Danger to your Grace of Forfeiture of his Lands and Goods, and his Body at your Pleasure.

VIII. Also the said Lord Cardinal, taking upon him otherwise than a true Counsellor ought to do, hath used to have all Ambassadors to come first to him alone; and so hearing their Charges and Intents, it is to be thought he hath instructed them after his Pleasure and Purpose before that they came to your Presence, contrary to your high Commandments, by your Grace's Mouth to him given, and also to other Persons sent to him by your Grace.

IX. Also the said Lord Cardinal hath promised so, that all Manner of Letters sent from beyond Sea to your Highness hath come first to his Hands, contrary

trary to your high Commandment by your own Mouth, and also to others sent to him by your Grace: By Reason whereof your Highness nor any of your Council had Knowledge of moe Matters but such as it pleased him to shew them; whereby your Highness and your Council have been compelled of very Force to follow his Devices, which oftentimes were set forth by him under such crafty and covert Meanings, that your Highness and your Council have oftentimes been abused; inasmuch that when your Council have found and put divers Doubts and Things which afterwards have ensued, he to abuse them, have used these Words, I will lay my Head that no such Things shall happen.

X. Also the said Lord Cardinal hath practis'd, that no manner of Person having Charge to make Espial of Things done beyond the Sea, should at their Return come first to your Grace, nor to any other of the Council, but only to himself; and in Case they did the contrary, he punished them for their so doing.

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 XI. Also the said Lord Cardinal hath
 granted Licences under your great Seal,
 for carrying out of Grain and other Vi-
 ctuals, after the Restraint hath been
 made thereof, for his own Lucre and
 singular Advantage of him and his Ser-
 vants, for to send thither, as he bore se-
 cret Favour, without your Grace's War-
 rant or Knowledge thereof.

XII. Also the said Lord Cardinal used
 many Years together not only to write
 unto all your Ambassadors, resident
 with other Princes, in his own Name,
 all Advertisements concerning your
 Grace's Affairs, being in their Charge,
 and in the same his Letters wrote many
 Things of his own Mind, without your
 Grace's Pleasure known, concealing di-
 verse Things which had been necessary
 for them know, but also caused them
 to write their Advertisements unto him;
 and of the same Letters he used to con-
 ceal, for the compassing of his Purpose,
 many Things, both from all your o-
 ther Counsellours, and from your self
 also.

XIII.

XIII. Also where good Hospitality hath been used to be kept in Houses and Places of Religion of this Realm, and many poor People thereby reliev'd, the said Hospitality and Relief is now decay'd, and not used; and it is commonly reported, that the Occasion thereof is, because the said Lord Cardinal hath taken such Impositions of the Rulers of the said Houses, as well for his Favour in making of Abbots and Priors, as for his Visitation by his Authority Legatine; and yet nevertheless taketh yearly of such Religious Houses, such yearly and continual Charges, as they be not able to keep Hospitality as they used to do; which is a great Cause that there be so many Vagabonds, Beggars, and Thieves.

XIV. Also where the same Lord Cardinal said, before the Suppression of such Houses as he hath suppressed, that the Possessions of them should be let to Farm among your Lay-Subjects, after such reasonable yearly Rent as they should well thereupon live, and keep good Hospitality: And now the demesne Possession of the same Houses,
since

since the Suppression of them had been surveyed, mete and measured by the Acre, and be now set above the Value of the old Rent: And also, such as were Farmers by Covent Seal, and Copyhold be put out and amoved off their Farms, or else compell'd to pay a new Fine, contrary to all Equity and Conscience.

XV. Also the said Lord Cardinal sitting among the Lords and other of your most honourable Privy Council, used himself, that if any Man would shew his Mind, according to his Duty, contrary to the Opinion of the said Cardinal, he would forsake him up with his accustomed Words, that they were better to hold their Peace than to speak; so that he would hear no Man speak but one or two great Personages, so that he would have all the Words himself, and consumed much Time with a fair Tale.

XVI. Also the Lord Cardinal, by his Ambition and Pride, hath hinder'd and undone many of your poore Subjects for want of Dispatchment of Matters, for he would no Man should meddle but himself,

himself, infomuch that it hath been affirmed by many wise Men, that ten of the wisest and most expert Men in *England* were not sufficient in convenient Time to order the Matters that he wou'd retain to himself; and many Times he deferred the Ending of Matters, because that Suitors shou'd attend and wait upon him, whereof he had no small Pleasure that his House shou'd be replenished with Suitors.

XVII. Also the said Lord Cardinal, by his Authority Legatine, hath used, if any spiritual Man having any Riches or Substance deceased, he hath taken their Goods as his own, by Reason whereof their Wills be not performed; and one Mean he had to put them in Fear that were made Executors, to refuse to meddle.

XVIII. Also the said Lord Cardinal constrained all Ordinaries in *England* yearly to compound with him, or else he will usurp half or the whole of their Jurisdiction by Prevention, not for good Order of the Dioceses,

not for

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but

but to extort Treasure ; for there is never a poor Archdeacon in *England*, but that he paid yearly to him a Portion of his Living.

XIX. Also the said Lord Cardinal hath not only by his untrue Suggestion to the Pope shamefully slander'd many good religious Houses, and good virtuous Men dwelling in them, but also suppress'd by Reason thereof above thirty Houses of Religion. And where by Authority of his Bull he should not suppress any House, that had more Men of Religion in Number above 6 or 7, he hath suppressed divers Houses that had above the Number; and thereupon hath caused divers Offences to be found by Verdict untruly, that the Religious Persons so suppressed had voluntarily forsaken their said Houses, which was untrue; and so hath caused open Perjury to be committed, to the high Displeasure of Almighty God.

XX. Also the said Lord Cardinal hath examined divers and many Matters in Chancery after Judgment thereof given at the Common Law, in Sub-
version

version of your Laws, and made some Persons restore again to the other Party condemned That that they had in Execution by Virtue of the Judgment at the Common Law.

XXI. Also the said Lord Cardinal hath granted many Injunctions by Writ, and the Parties never called thereunto, nor Bill put in against them; and by Reason thereof, divers of your Subjects have been put from their lawful Possession of their Lands and Tenements; and by such Means he hath brought the more Party of the Suitors of this your Realm before himself, whereby he and divers of his Servants have gotten much Riches, and your Subjects suffered great Wrongs.

XXII. Also the said Lord Cardinal, to augment his great Riches, hath caused divers Pardons granted by the Pope to be suspended, which could not be revived till the said Lord Cardinal were rewarded, and also have a yearly Pension of the said Pardon.

XXIII. Also the said Lord Cardinal, not regarding the Laws nor Justice, of his extort Power, hath put out divers and many Farmers of his Lands, and also Patentees of the Archbishoprick of *York*, and the Bishoprick of *Winchester*, and of the Abbey of *St. Albans*, which had good and sufficient Grant thereof by the Laws.

XXIV. Also the same Lord Cardinal, at many Times, when any Houses of Religion have been void, he hath sent his Officers thither, and with crafty Perswasions hath induced them to compromit their Election in him; and that before he named or confirmed any of them, he and his Servants received so much great Goods of them, that in manner it hath been to the undoing of the House.

XXV. Also, by his Authority Legatine, the same Lord Cardinal hath visited the most Part of the Religious Houses and Colleges of this your Realm, and hath taken from the 25th Part of their Livelihood, to the great Extortion of your Subjects, and Dero-
gation

gation of your Laws and Prerogative,
and no Law to bear him so to do.

XXVI. Also, when Matters have
been near at Judgment by Process
at the Common Law, the same Lord
Cardinal hath not only given and sent
Injunctions to the Parties, but also
sent for the Judges, expressly by
Threats commanding them to defer
the Judgment, to the evident Subver-
sion of your Laws; if the Judges would
so have ceased.

XXVII. Also, whereas neither the
Bishoprick of *Tork* nor *Winchester*, nor
the Abbey of *St. Albans*, nor the Pro-
fit of his Legation, nor the Benefit
of the Chancery, nor his great Pen-
sion out of *France*, nor his Wards and
other inordinate Taking, could not
suffice him; he hath made his Son
Winter to spend seven and twenty
hundred Pounds by the Year; which
he taketh to his own Use, and giveth
him not past two hundred Pounds
yearly to live upon.

XXVIII. Also, when the said Lord
Cardinal did first sue unto your Grace
to

to have your Assent to be Legate *de Latere*, he promised and solemnly protested before your Majesty, and before the Lords both Spiritual and Temporal, that he wou'd nothing do or attempt by the Virtue of his Legacy, that shou'd be contrary to the gracious Prerogative or Regality, or to the Damage or Prejudice of the Jurisdiction of any Ordinary; and that by his Legacy no Man shou'd be hurted or offended: And upon that Condition, and no other, he was admitted by your Grace to be Legate within this your Realm; which Condition he hath broken, as is well known to all your Subjects. And when he made this Promise, he was busy in his Suit at *Rome* to visit all the Clergy of *England*, both exempt and not exempt.

XXIX. Also, upon the Suit of the said Lord Cardinal at *Rome* to have his Authority Legantine, he made untrue Surmise to the Pope's Holiness against the Clergy of your Realm; which was, that the Regular Persons of the said Clergy had given themselves in *Reprobum Sensum*, which
Words

Words *St. Paul*, writing to the *Romans*, applied to abominable Sin, which Slander to your Church of *England* shall for ever remain in the Register at *Rome* against the Clergy of this your Realm.

XXX. Also the said Lord Cardinal had the more Part of the Goods of Doctor *Smith* late Bishop of *Lincoln*, Bishop *Savage* of *Tork*, Master *Dalbhy* Archdeacon of *Richmont*, Master *Tonyers*, Doctor *Rothall* late Bishop of *Durham*, and of Doctor *Foxe* late Bishop of *Winchester*, contrary to their Wills, and your Laws and Justice.

XXXI. Also, at the Oyer and Terminer at *Tork*, Proclamation was made, that every Man should put in their Bills for Extortion of Ordinaries; and when divers Bills were put in against the Officers of the said Lord Cardinal of Extortion, for taking R Pence of the Pound for Probation of Testaments, whereof divers Bills were found before Justice *Fitzherbert* and other Commissioners, the said Lord Cardinal removed the said Indictments into the Chancery by *Certiorari*,

rari, and rebuked the said *Fitzherbert* for the same Cause.

XXXII. Also the said Lord Cardinal hath busied and endeavoured himself, by crafty and untrue Tales, to make Dissension and Debate among the Nobles of the Realm, which is ready to be proved.

XXXIII. Also the said Lord Cardinal's Officers have divers Times compelled your Subjects to serve him with Carts for Carriage; and also his Servants have taken both Corn and Cattle, Fish and all other Victual, at your Grace's Price, or under, as tho' it had been for your Grace, which is contrary to the Laws.

XXXIV. Also the said Lord Cardinal hath misused himself in your most honourable Court, in keeping of as great Estate there in your Absence, as your Grace wou'd have done if you had been there present in your own Person.

XXXV. Also his Servants, by Virtue of your Commission under your Broad

Broad Seal, by him to them given, have taken Cattle and all other Victual, at as low a Rate as your Purveyors have done for your Grace by your Prerogative, against the Laws of your Realm.

XXXVI. Also where it hath been accustomed that the Purveyors for your Honourable Household have been yearly out of your Town and Liberty of *St. Albans* three or four hundred Quarters of Wheat, Truth it is, that since the Lord Cardinal had the Room of the Abbot, that your said Purveyors could not be suffered by him and his Officers to take any Wheat within the said Town or Liberty.

XXXVII. Also he hath divers Times given Injunctions to your Servants that have been for Causes before him in the Star Chamber, if they nor other for them should make Labour by any Manner of Way, directly or indirectly to your Grace, to obtain your Grace's Favour or Pardon; which was a presumptuous Intent for any Subject.

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XXXVIII.

XXXVIII. Also the said Lord Cardinal did call before him Sir John Stanley, Kt. which had taken a Farm by Covent Seal of the Abbor and Covent of Chester, and afterwards by his Power and Might, contrary to Right, committed the said Sir John Stanley to the Prison of the Fleet by the Space of a Year, unto such Time as he compelled the said Sir John to release his Covent Seal to one Leghe of Adlington, which married one Lock's Daughter; which Woman the said Lord Cardinal kept, and had with her two Children. Whereupon the said Sir John Stanley, upon Displeasure taken in his Heart, made himself Monk in Westminster, and there died.

XXXIX. Also on a Time your Grace being at St. Albans, according to the ancient Custom used within the Verge, your Clerk of the Market doing his Office, did present unto your Officers of your most honourable Household the Prices of all Manner of Victuals within the Precinct of the Verge. And it was commanded by your said Officers to set up

up the said Prices both on the Gates of your honourable Household, and also within the Marker Place within the Town of *St. Albans*, as of ancient Custom hath been used. And the Lord Cardinal hearing the same presumptuously, not like a Subject, caused the aforesaid Prices, which were sealed with your Grace's Seal, accustomedly used for the same, to be taken off and pulled down in the said Market-Place, where they were set up, and in the same Places set up his own Prices sealed with his Seal, and would if it had not been letted, in semblable Manner, use your Seal standing upon your Gates; and also would of his presumptuous Mind have openly set in the Stocks within the said Town the Clerk of the Marker. By which Presumption and Usurpation your Grace may perceive that in his Heart he hath reputed himself to be equal with your real Majesty.

XL. Also the said Lord Cardinal, of his further pompous and presumptuous Mind, hath enterprized to join and imprint the Cardinal's Hat under your Arms in your Coyn of Groats

made at your City of *York*, which like Deed hath not been seen to be done by any Subject in your Realm before this Time.

XLI. Also where one *Sir Edward Jones*, Clerk, Parson of *Orewley* in the County of *Bucks*, in the Eighteenth Year of your most Noble Reign, let his said Parsonage, with all Tythes and other Profits of the same, to one *William Johnson* by Indenture for certain Years, within which Years the Dean of the said Cardinal's College in *Oxford* pretended Title to a certain Portion of Tythes within the said Parsonage, supposing the said Portion to belong to the Parsonage of *Chichelsy*, which was appointed to the Priory of *Lykeford* lately suppressed, where (of Truth) the Parsons of *Orewley* have been peaceably possessed of the said Portion out of the Time of Mind. Whereupon a *Subpœna* was directed to the said *Johnson* to appear afore the Lord Cardinal at *Hampton Court*, out of any Term, with an Injunction to suffer the said Dean to occupy the said Portion. Whereupon the said *Johnson* appeared before

before the said Lord Cardinal at *Hamp-
ton Court*, where, without any Bill,
the said Lord Cardinal committed
him to the *Fleet*, where he remained
by the Space of twelve Weeks, be-
cause he would not depart with the
said Portion. And at last, upon a Re-
cognizance made that he should appear
before the said Lord Cardinal when-
ever he was commanded, he was de-
livered out of the *Fleet*. Howbeit
as yet the said Portion is to kept from
him, that he dare not deal with it.

to XLII. Also where one *Martin
Decowra* had a Lease of the Mannor
of *Balsall* in the County of *Warwick*
for Term of certain Years, an Injunc-
tion came to him out of the Chan-
cery by Writ upon Pain of a Thou-
sand Pounds, that he should avoid
the Possession of the same Mannor,
and suffer Sir *George Throckmorton*, Kt.
to take the Profits of the same Man-
nor to the Time the Matter depending
in Chancery between the Lord *St.
Johns* and the said *Decowra* were dis-
cussed: And yet the said *Decowra* ne-
ver made Answer in the Chancery,
nor ever was called into the Chancery
for

for that Matter, and now of late he hath received a like Injunction, upon Pain of Two Thousand Pounds, contrary to the Course of the Common Law.

XLIII. Also whereas in the Parliament Chamber, and in open Parliament, Communication and Devices were had and moved, wherein mention was an Incident made of Matters, touching Heresies and erroneous Sects; it was spoken and reported by one Bishop there being present, and confirmed by a good Number of the same Bishops, in Presence of all the Lords Spiritual and Temporal then assembled, that two of the said Bishops were minded and desired to repair unto the University of Cambridge, for Examination, Reformation, and Correction of such Errors as then seemed or were reported to reign amongst the Students and Scholars of the same, as well touching the *Lutheran* Sect and Opinions as otherwise. The Lord Cardinal, informed of the good Minds and Intents of the said two Bishops in that Behalf, expressly inhibited and commanded them in no wise so to do. By Means whereof, the same Errors, as they

they affirmed, crept more abroad, and took greater Place; saying furthermore, that it was not in their Defaults that the said Heresies were not punish'd, but in the said Lord Cardinal, and that it was no Reason any Blame or Lack should be annexed to them for his Offence; whereby it evidently appeareth that the said Lord Cardinal, besides all other his heinous Offences, hath been the Impeacher and Disturber of due and direct Correction of Heresies, being highly to the Danger and Peril of the whole Body and good Christian People of this Realm.

XLIV. Finally, forasmuch as by the aforesaid Articles is evidently declared to your most Royal Majesty, that the Lord Cardinal by his outrageous Pride, hath greatly shadowed a long Season of your Grace's Honour, which is most highly to be regarded, and by his insatiable Avarice and ravenous Appetite to have Riches and Treasure without Measure, hath so grievously oppressed your poor Subjects with so manifold Crafts of Bribery and Extortion, that the Commonwealth of this your Grace's Realm is thereby greatly decay'd and im-

impoverished. And also by his Cruelty, Iniquity, Affection and Partiality hath subverted the due Cause and Order of your Grace's Laws, to the undoing of a great Number of your loving People.

Please, in your most Royal Majesty therefore, of your excellent Goodness towards the Weal of this your Realm and Subjects of the same, to let such Order and Direction upon the said Lord Cardinal, as may be to the terrible Example of others to beware so to offend your Grace, and your Laws hereafter: And that he be so provided for, that he never have any Power, Jurisdiction or Authority hereafter to trouble, vex and impoverish the Commonwealth of this your Realm as he hath done heretofore, to the great Hurt and Damage of every Man almost high and low; which for your Grace so doing, will daily pray, as their Duty is, to Almighty God, for the prosperous Estate of your most Royal Majesty, long to endure in Honour and good Health to the Pleasure of God, and your Heart's most desire.

Subscribed the first Day of December,
the 2^{ist} Year of the Reign of our So-
vereign Lord King *Henry the VIIIth.*

<i>T. More,</i>	<i>T. Rocheford,</i>
<i>T. Norfolk,</i>	<i>T. Darcy,</i>
<i>Charl. Suffolk,</i>	<i>W. Montjoy,</i>
<i>Tho. Dorset,</i>	<i>William Sandys,</i>
<i>H. Exon,</i>	<i>Will. Fitzwilliam,</i>
<i>John Oxinsford,</i>	<i>Henry Guldeford,</i>
<i>H. Northumberland,</i>	<i>John Fitzjames,</i>
<i>G. Shrewsbury,</i>	<i>Ant. Fitzherbert,</i>
<i>R. Fitzwater,</i>	

However, Cardinal *Woolsey* was treated more mildly than any other Delinquent in this Reign, which may properly be called the Reign of Attainders, for they were now more frequent than ever. The first Victim to them was *Thomas Cromwell* Earl of *Essex*, who is said by our mistaken Historians to have suffered by a Law he had made himself; which is an absolute Untruth as you already perceive; but what gave Ground to their Mistake was, that he had consulted some of the Judges, whether a Criminal might not be put to Death without being previously brought to Answer, and having an Opportunity to make his Defence? To

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which

which they said, that such Things had been often done by Bills of Attainder, which he seemed to approve of, and by a strange Reverse of Fate was made the first Instance of the Revival of that Practice. The same Parliament a few Years after, when the King grew uneasy about the Punishment of the Queen *Katherine Howard*, and was irresolute in what manner to prosecute her, or upon what Law, sent him Word by Petition not to fret about it, for they would attain her by Bill, which they did accordingly.

In the short Reign of *Edward the Sixth*, there is an Instance of the same Spirit in the Attainder of *Thomas Seymour Lord Sudely*, who was first impeached: but upon second Thoughts the other Method was chosen, and a Bill passed for his Attainder; and this leads me to consider the Doctrine of Precedents, for which our Lawyers are so strangely zealous: Can there be any Reason for doing an ill Thing, that has been done before? Surely no, but to make that the only and strongest Reason, is an Error that will draw monstrous Consequences after it: What
Vice,

Vice, Villany or Flagitiousness which can't make the same Plea? The same Argument will serve both Parties, in almost every Case.

The Reign of King *James* the First furnishes me with some Materials towards this little History. The Story of my Lord *Bacon*, tho' he never was impeached is a remarkable Instance of the Severity and Justice of the Lords House, as well as of their Power in Judging a Criminal who was not accused, but by his own Confession; for he did not wait for an Impeachment before he made it: Just the same was the Case of *Hubert de Burgh*, beforementioned, who also confessed his Crimes, that is to say implicitly by taking Sanctuary when he was first accused.

In the Beginning of King *Charles* the First's Reign, we find practiced a Method of Impeachment new and extraordinary: The King sends his Attorney General to the Bar of the House of Lords to charge the Earl of *Bristol* with high Treason, who accordingly gave in Eleven Articles against him:

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Upon

Upon which the Earl desired to be heard, and immediately impeached the Duke of *Buckingham* of High Treason, and exhibited Twelve Articles against him; and here it is worth observing that the King's Accusation was preferred to be the first proceeded on, and therefore the Earl was ordered into Custody. But while the Duke triumphed on his seeming Success, the Commons sent up some of their Members with Thirteen Articles of Impeachment for High Crimes and Misdemeanours; to which he pleaded a Pardon from the late King *James* and the present King's Coronation-Pardon: This so incensed the Commons, that they annexed to a Money Bill, which was then preparing, certain Resolutions against the Duke, which when the King heard, he sent and dissolved them immediately, and the Duke's Death which happened soon after put an End to all that Matter.

The next that came under Censure was Doctor *Manwaring*, the *Sacheverel* of a former Age; who for preaching the Lawfulness of the King's Taxations, was proceeded against by the Commons

mous, and had this remarkable Sentence given against him by the Lords

1. To be imprisoned during the Pleasure of the House.

2. To be fined a Thousand Pounds.

3. To make his Submission at the Bar in this House and in the House of Commons at the Bar there, in *verbis Conceptis*, a set form of Words framed by a Committee of this House.

4. To be suspended from his Ministerial Function Three Years, and in the mean Time a sufficient preaching Man to be provided out of the Profits of his Living, and this to be left to be performed by the Ecclesiastical Court.

5. To be disabled for ever hereafter from preaching at Court.

6. To be for ever disabled of having any Ecclesiastical Dignity in the Church of *England*.

7. To be incapable of any Secular Office or Preferment.

8. That his Books are worthy to be burned, and his Majesty to be moved that it may be so in *London* and both Universities.

And

And accordingly he made his Submission at the Bar of both Houses on his Knees, on the 23d of June following, with these outward Expressions of Sorrow, as follow :

“ I do here in all Sorrow of Heart,
 “ and true Repentance, acknowledge
 “ those many Errors and Indiscretions
 “ which I have committed in preach-
 “ ing and publishing the two Sermons
 “ of mine which I called *Religion* and
 “ *Allegiance*, and my great Fault in
 “ falling upon this Theme again, and
 “ handling the same rashly, scanda-
 “ lously, and unadvisedly, in my own
 “ Parish Church in St. Giles's in the
 “ Fields, the Fourth of May last past.
 “ I humbly acknowledge those three
 “ Sermons to have been full of dan-
 “ gerous Passages and Inferences, and
 “ scandalous Aspersions in most Part
 “ of them : And I do humbly acknow-
 “ ledge the just Proceedings of this
 “ Honourable House against me, and
 “ the just Sentence and Judgment pas-
 “ sed upon me for my great Offence :
 “ And I do, from the Bottom of my
 “ Heart, crave Pardon of God, the
 “ King,

“ King, and this Honourable House,
 “ and the Common-weal in general,
 “ and those worthy Persons adjudged
 “ to be reflected upon by me in par-
 “ ticular for these great Offences and
 “ Crimes.”

But the rest of his Sentence was not executed ; for after the Dissolution of the Parliament the King presented him to a good Living in Essex, and from thence made him Bishop of *St. David's*. I have dwelt so long upon this Man, because he is the first of an inferior Rank whom the Lords ever designed to sit in Judgment upon : But it must be remember'd, that he was not formally impeached or formally tried, but was so sentenced upon View of his Books and Proofs that he was the Author ; which he did not deny.

It wou'd be idle to tell you the History of the Earl of *Stafford's* Impeachment, which every Body knows. I shall only say he was at first impeached in the usual Manner, committed to the Tower, and brought to his Tryal ; where, when they could not fully prove him guilty of Treason upon any Law then

then in being, they made One for his Attainder and Execution, which followed accordingly.

Archbishop *Laud* was soon after impeach'd by the Commons ; to which Impeachment he pleaded the King's Pardon ; but it was adjudged void in Law ; and this Opinion was in some sort doubtful, till an Act in the Reigns of King *William* and Queen *Mary*, by which it is enacted, That no Pardon under the Great Seal shall be of any Force against an Impeachment by the Commons.

In this troublesome Reign, Impeachments were frequent, and all of the same Nature with the foregoing : At several Times the Commons impeach'd five Judges, for giving Opinions which they did not like ; the whole Bench of Bishops, and nine Peers, in order to take off their Votes, when something was to be done in the House which they apprehended the Bishops or other Lords wou'd oppose them in : Nay, they carry'd it so far, that during the War they impeached the Queen ; but no further Proceedings were had in any
of

of these Cases : And here I shall leave off till the Restoration ; for about this Time they ceased to be a Parliament, and consequently what was done afterwards must be illegal.

Whatever has been done since the Restoration was so much in the Common Way, that it wou'd be repeating the same Thing to give a Detail of their Proceedings. I shall only hint the Impeachment of *Fitzharris*, in the Reign of *Charles* the Second, whom the Lords refused to try as beneath their Cognizance, which occasioned a Vore in the House of Commons, that it was the Duty of the Lords to try whomsoever they impeached ; and because, at the same Time, a Bill of Indictment was found against *Fitzharris*, they voted that any Judge who presumed to take Cognizance of an Affair which was under their Consideration, was guilty of an high Misdemeanor. This kept the Offender from Tryal till their Dissolution : But we have lately seen, in *Sacheverell's* Case, that the Lords have receded from that Resolution against trying Commoners.

I dont know whether I have by this Enquiry laid your Doubts; however, unable as I am sufficiently to discuss this Subject, it will be some Pleasure to me to assure you that the Task is such as has not been already attempted, and such as I despair to see well performed. What is said by an old Author of the Laws and Customs by which the Parliament goes, may be aptly apply'd to the Matter in Hand. *Ista Lex ab omnibus est quærenda, a multis Ignorata, a Paucis cognita.* Upon the whole, it seems to me, that whatever Method that great Court thinks proper upon any Occasion, is not to be directed or impugned by the Authority of Precedent or Example. Sir Thomas Smith, a great Statesman in Queen Elizabeth's Reign, gives the following Description of an *English* Parliament in his Treatise, *De Republica Anglorum, Lib. 2. Cap. 2.* which will be sufficient to demonstrate their Power in the present Case. " The
 " most high and absolute Power of the
 " Realm of *England* consisteth in the
 " Parliament; for the Parliament abro-
 " gareth old Laws, maketh new,
 " giveth Order for Things past, and
 " for

" for Things hereafter to be followed;
 " changeth Rights and Possessions of
 " private Men, legitimateth Bastards,
 " corroborates Religion with Civil
 " Sanctions, alters Weights and Mea-
 " sures, prescribes the Right of Suc-
 " cession to the Crown, defines
 " doubtful Rights where there is no
 " Law already made, appointeth Sub-
 " sidies, Taxes and Impositions, giveth
 " most free Pardons; restoreth in Blood
 " and Name &c.

My Lord *Coke* makes a Distinction
 between an Ordinance and an Act of
 Parliament, which is very just; a Statute
 is that which is made by the joint Con-
 sent of the King and Three Estates,
 but an Ordinance may be without the
 Consent of one or more of the Three
 Estates; such was the Sentence against
 Sir *Giles Mompesson*, the Lord *Verulam*,
 and Doctor *Mandayring*, of late Years,
 by the House of Lords; and frequent
 Instances are to be found in the Par-
 liament Rolls of a more early Date.

Thus have I unwarily engaged in a
 Matter which few are able to compre-
 hend, and which I confess above my
 Ca-

Capacity; but your Commands are of
 such Weight with me that I would ra-
 ther chuse being exposed as an enter-
 prizing Ignorant, than run the least Ha-
 zard of being thought otherwise than

“ lues, prescribes the Right of Suc-
 “ cession, the Crown, &c. *Fourty Sec.*
 “ doubtful Rights where there is no
 “ Law already made, appointed, or
 “ lites, Taxes and Impositions, &c.
 “ most free Persons; & in the Blood
 “ and the

F I N I S.

My Lord, I am a Distinction
 between an Act of Parliament, which
 is that which is made by the
 Court, and an Act of the
 Effort, and the
 and the
 by the
 Instance are in the
 Instant Rolls of the early Date

Thus have I now only engaged in a
 manner which few are able to com-
 mend, and which I would above any
 other

